

Monetary Penalties

WAC 296-900-140

Section Contents

EMPLOYER RESPONSIBILITY:

To pay monetary penalties if assessed

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Definition:

Monetary penalties are fines assessed against an employer for violations of safety and health requirements.



Monetary Penalties

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Rule

WAC 296-900-14005

Reasons for monetary penalties

- WISHA **may** assess monetary penalties when a citation and notice is issued for any violation of safety and health rules or statutes.
- WISHA **will** assess monetary penalties under the following conditions:
 - When a citation and notice is issued for a serious, willful, or egregious violation.
 - When civil penalties are specified by statute as described in RCW 49.17.180.



Note:

In addition to penalties specified by WISHA, there are penalties specified by other statutes, such as:

- Asbestos construction projects, RCW 49.26.016.
 - Right to know (RTK)-MSDS, RCW 49.70.190.
 - Right to know-Penalty for late payment, RCW 49.70.177.
- The minimum civil penalties assessed by WISHA are:
 - 100 dollars for any penalty
 - 5,000 dollars per violation for all willful violations
 - 250 dollars per day for asbestos good faith inspection (RCW 49.26.016 and 49.26.013).



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WAC 296-900-14010

Base penalties

- WISHA calculates the base penalty for a violation by considering the following:
 - Specific amounts that are dictated by statute
 - or**
 - By assigning a weight to a violation, called "gravity." Gravity is calculated by multiplying a violation's severity rate by its probability rate. Expressed as a formula:

$$\text{Gravity} = \text{Severity} \times \text{Probability}$$



Note:

Most base penalties are calculated by the gravity method.

- Severity and probability are established in the following ways:

Severity:

- Severity rates are based on the most serious injury, illness, or disease that could be reasonably expected to occur because of a hazardous condition.
- Severity rates are expressed in whole numbers and range from 1 (lowest) to 6 (highest). Violations with a severity rating of 4, 5, or 6 are considered serious.
- WISHA uses Table 3, Severity Rates, to determine the severity rate for a violation.



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Base penalties (continued)

Table 3
Severity Rates

Severity	Most serious injury, illness, or disease from the violation is likely to be
6	<ul style="list-style-type: none">• Death• Injuries involving permanent severe disability• Chronic, irreversible illness
5	<ul style="list-style-type: none">• Permanent disability of a limited or less severe nature• Injuries or reversible illnesses resulting in hospitalization
4	<ul style="list-style-type: none">• Injuries or temporary, reversible illnesses resulting in serious physical harm• May require removal from exposure or supportive treatment without hospitalization for recovery
3	<ul style="list-style-type: none">• Would probably not cause death or serious physical harm, but have at least a major impact on and indirect relationship to serious injury, illness, or disease• Could have direct and immediate relationship to safety and health of employees• First aid is the only medical treatment needed
2	<ul style="list-style-type: none">• Indirect relationship to nonserious injury, illness, or disease• No injury, illness, or disease without additional violations
1	<ul style="list-style-type: none">• No injury, illness, disease• Not likely to result in injury even in the presence of other violations

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Base penalties (continued)

Probability:



Definition:

A *probability rate* is a number that describes the likelihood of an injury, illness, or disease occurring, ranging from 1 (lowest) to 6 (highest).

- When determining probability, WISHA considers a variety of factors, depending on the situation, such as:
 - Frequency and amount of exposure.
 - Number of employees exposed.
 - Instances, or number of times the hazard is identified in the workplace.
 - How close an employee is to the hazard, i.e., the proximity of the employee to the hazard.
 - Weather and other working conditions.
 - Employee skill level and training.
 - Employee awareness of the hazard.
 - The pace, speed, and nature of the task or work.
 - Use of personal protective equipment.
 - Other mitigating or contributing circumstances.
- WISHA uses Table 4, Gravity Based Penalty, to determine the dollar amount for each gravity-based penalty, unless otherwise specified by statute.



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Base penalties (continued)

Table 4
Gravity Based Penalty

Gravity	Base Penalty
1	\$100
2	\$200
3	\$300
4	\$400
5	\$500
6	\$1000
8	\$1500
9	\$2000
10	\$2500
12	\$3000
15	\$3500
16	\$4000
18	\$4500
20	\$5000
24	\$5500
25	\$6000
30	\$6500
36	\$7000



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WAC 296-900-14015

Base penalty adjustments

- WISHA may adjust base penalties. Table 5, Adjusted Base Penalties, describes the various factors WISHA considers when adjusting a base penalty, and the effect on the fine.
 - The minimum adjusted base penalty for any violation carrying a penalty is 100 dollars.
 - The minimum penalty for willful violations is 5,000 dollars.
 - The maximum adjusted base penalty for a violation is 7,000 dollars.
- No adjustments are made to minimum penalty amounts specified by statute.



Note:

Repeat, willful, egregious, or failure-to-abate (failure to correct) penalty adjustments can exceed 7,000 dollars. See Increases to adjusted base penalties, WAC 296-900-14020, for those penalties.



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WAC 296-900-14015

Base penalty adjustments (continued)

Table 5
Adjusted Base Penalties

For this type of adjustment	WISHA will consider	The base penalty will be adjusted as follows
Good faith effort	<ul style="list-style-type: none">• Awareness of act• Effort before an inspection to provide a safe and healthful workplace for employees• Effort to follow a requirement they have violated• Cooperation during an inspection, measured by a desire to follow the cited requirement and immediately correct identified hazard	Excellent rating = 35% reduction Good rating = 20% reduction Average rating = No adjustment Poor rating = 20% increase
Size of workforce	<ul style="list-style-type: none">• Workforce size at all sites in Washington State	1-25 employees = 60% reduction 26-100 employees = 40% reduction 101-250 employees = 20% reduction More than 250 employees = No adjustment
Employer history	<ul style="list-style-type: none">• History of previous safety and health violations in Washington State and injury and illness rates for that employer	Good history = 10% reduction Average history = No adjustment Poor history = 10% increase



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WAC 296-900-14020

Increases to adjusted base penalties

- WISHA may increase an adjusted base penalty in certain circumstances. Table 6, Increases to Adjusted Base Penalties, describes circumstances where an increase may be applied to an adjusted base penalty.



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WAC 296-900-14020

Increases to adjusted base penalties (continued)

Table 6
Increases to Adjusted Base Penalties

For this circumstance	The adjusted base penalty may be increased as follows
Repeat violation When the employer has been previously cited for a substantially similar hazard, with a final order for the previous violation dated no more than 3 years prior to the employer committing the violation being cited.	Multiplied by the total number of citations with violations involving similar hazards, including the current inspection Note: The maximum penalty can't exceed 70,000 dollars for each violation.
Willful violation An act committed with the intentional, knowing, or voluntary disregard for the WISHA requirements or with plain indifference to employee safety	Multiplied by 10 with at least the statutory minimum penalty of 5,000 dollars. Note: The maximum penalty can't exceed 70,000 dollars for each violation
Egregious violation If the violation was willful and at least one of the following: <ul style="list-style-type: none"> - The violations resulted in worker fatalities, a worksite catastrophe, or a large number of injuries or illnesses - The violations resulted in persistently high rates of worker injuries or illnesses - The employer has an extensive history of prior violations - The employer has intentionally disregarded its safety and health responsibilities - The employer's conduct taken as a whole amounts to clear bad faith in the performance of his/her duties. - The employer has committed a large number of violations so as to undermine significantly the effectiveness of any safety and health program that might be in place 	With a separate penalty issued for each instance the employer fails to follow a specific requirement
Failure to abate (FTA) Failure to correct a cited WISHA violation on time Reference: For how to certify corrected violations, go to Certifying violation corrections, WAC 296-900-15005 through 296-900-15030	Based on the facts at the time of reinspection, will be multiplied by: <ul style="list-style-type: none"> - At least 5, but up to 10, based on the employer's effort to comply - The number of calendar days past the correction date, with a minimum of 5 days. Note: The maximum penalty can't exceed 70,000 dollars per day for every day the violation isn't corrected

